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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,834	01/17/2002	David J. Richmond	REVOL-58825	1866

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EXAMINER

BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

S.C.

<b>Office Action Summary</b>	<b>Application No.</b> 10/052,834	<b>Applicant(s)</b> RICHMOND ET AL.	
	<b>Examiner</b> Shay L Balsis	<b>Art Unit</b> 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 33-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 and 47-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Election/Restrictions*

Claims 33-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement on April 19, 2004. In future actions please use the status identifier, **withdrawn**, for claims 33-46.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 7-19, 21-32, 47-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Marino (USPN 6098635).

Marino teaches a rotatable hair brush comprising a pair of oppositely disposed supports (c9, 138-43). There is a plurality of dividers (50, 140) supported by the supports, arranged so that there is a central opening. A core (33, 112) is disposed in the central opening. The core comprises a plurality of openings, each opening having bristles (40, 190) extending therefrom. The core has a detent at one end and the support has a detent to form a mating relationship with the core detent (figure 3). The core and the dividers are substantially cylindrical and have axes that are parallel. A motor (24) is operatively coupled to the core to rotate the core. There is a handle (12) which is smoothly cratered to the end of the handle adjacent the core. There is additionally a battery (14) disposed in the handle. On the handle there is a switch (20) with a

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first position to obtain rotation of the core in a first direction and a second position to obtain a rotation in a second direction different from the first direction. There are end caps (36, 114, 116)), which overlaps the dividers to provide a smooth surface.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marino (USPN 6098635) in view of Lesetar (USPN 3890984).

Marino teaches all the essential elements of the claimed invention however fails to teach a separate switch for controlling motor speed. Marino teaches one switch which changes the direction of rotation of the brush and also can control motor speed (c3, 131-37). Lesetar teaches a rotary brush comprising a switch for reversing the direction of the brush and also a switch for adjusting the speed of rotation of the brush. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add another switch to Marino so that the motor speed has it own control switch. Having a separate speed control switch allows for easier manipulation of the brush and less chance of error for example by attempting to decrease the speed and accidentally changing the direction of rotation.

***Applicant's Remarks***

1. Shute does not teach a handle that is smoothly contoured relative to the brush at the end adjacent to the brush.

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2. Marino does not teach a handle that is smoothly contoured relative to the brush at the end adjacent to the brush.

Marino does not teach an end cap that has a peripheral configuration to prevent the user's hair from being entangled in the hairbrush.

3. Marino does not teach end caps disposed at opposite ends of the core.

***Response to Arguments***

1. Applicant's arguments see page 20, lines 5-9, filed 8/9/04, with respect to Shute (USPN 524654) have been fully considered and are persuasive. The rejections of claims 1-2 and 13 have been withdrawn.

2. Applicant's arguments filed 8/9/04 with respect to Marino have been fully considered but they are not persuasive.

Marino does teach a handle that is smoothly contoured and cratered relative to the brush. On figures 1 and 3 of Marino, it can be seen that the handle is not formed by parallel lines. The handle is contoured to have a cratered shape so as to fit into the user's hand. The diameter of the handle changes as it moved away from the brush head.

Marino does teach an end cap (36) that has a peripheral configuration that prevents the user's hair from being entangled. The end cap abuts the end of the dividers so that there is no gap where hair may become entangled. The dividers and the end cap are fit tightly together.

3. Marino teaches a hairbrush comprising an end cap located at opposite ends of the core. Figure 10 of Marino clearly shows both end caps (114, 116) tightly abutting the end of the dividers (140) so that there is no gap where hair may become entangled.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Slb  
9/20/04

  
Terrence R. Till  
Primary Examiner